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by the Town Manager

CORTE MADERA TOWN COUNCIL
STAFF REPORT

Report Date: March 29, 2011
Meeting Date: April 5, 2011

TO: TOWN MANAGER, MAYOR AND TOWN COUNCIL
FROM: ROBERT PENDOLEY, PLANNING CONSULTANT
REVIEWED BY: DAN BELL, PLANNING DIRECTOR
SUBJECT: Public Hearing on the Draft Housing Element and rezoning of the 4.5-acre WinCup property at 195 Tamal Vista Boulevard (APN 024-011-62 & 63) to MUGD, Mixed-Use Gateway Overlay District

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PURPOSE: To take public comment on the following:

1. The draft updated Housing Element of the General Plan.
2. An amendment to the zoning ordinance adding the MUGD, Mixed-Use Gateway overlay zoning district.
3. A proposal to rezone the WinCup property to MUGD, Mixed-Use Gateway overlay zoning district.

RECOMMENDATION:

Staff recommends the Town Council take the following actions

1. Adopt attachment 1, a resolution finding that the EIR for the 2009 General Plan covers the draft Housing Element, the amendment to the zoning ordinance to add the MUGD overlay district, and rezoning the Wincup property.
2. Adopt Attachment 2, a resolution adopting the updated Housing Element.
3. Adopt Attachment 3, an ordinance adding the MUGD, Mixed-Use Gateway overlay zoning district.

4. Adopt Attachment 4, an ordinance rezoning the WinCup property to MUGD, Mixed-Use Gateway overlay zoning district.

OPTIONS:

The following additional options are available to the Council:

1. Refer the matter to staff for further analysis and revisions.
2. Decline to adopt the updated Housing element, but approve the amendment to the zoning ordinance.

TOWN MANAGER’S RECOMMENDATION:

Support staff’s recommendation.

GENERAL PLAN:

The draft Housing Element carries forward policies in the 2002 Housing Element and reiterates development policies that were adopted as part of the Land Use Element of the 2009 General Plan. The zoning ordinance revision to adopt the MUGD district and to rezone the WinCup property is specifically called for in the 2009 General Plan The Program EIR for the 2009 General Plan identified the MUGD district and the WinCup rezoning as the Preferred Alternative to other policies that were considered in the process of updating the General Plan.

FISCAL IMPACTS:

None at this time.

CEQA STATUS:

As provided by CEQA, staff has prepared an Environmental Evaluation (Attachment A to Attachment 1). The Planning Commission agreed with the Environmental Evaluation’s conclusion that the updated Housing Element, the textual amendment to the zoning ordinance to add the MUGD overlay district and the WinCup rezoning are covered by the EIR for the 2009 General Plan which the Town Council certified on April 21, 2009.

BACKGROUND:

The draft updated Housing Element was prepared in late 2009 under the supervision of a Citizens’ Advisory Committee appointed by the Town Council. The draft updated Housing Element continues many of the policies in the 2002 Housing Element and incorporates important housing related policies from the 2009 General Plan. Unlike other General Plan elements, the Housing Element is reviewed by the California Department of Housing and Community Development (HCD) to determine whether it is consistent with state law. HCD’s review is a two-phased process. In the preliminary review phase, HCD comments on the draft Housing Element before it has been through the public hearing process. The purpose of preliminary review is to identify areas in which the document does not comply with state regulations. The second phase occurs after the local agency has adopted the Element, presumably with the changes HCD has recommended. At the

end of the second phase, HCD will “certify” that the Housing Element is legally adequate, if it finds the document meets the applicable requirements of the Government Code. At the conclusion of the first-phase review in January 2011, HCD determined that the draft Housing Element is in compliance with State law and that they will certify the Element when it is submitted for final review at the conclusion of the Town Council’s public hearings.

A key strategy in the Draft Housing Element is a proposal to rezone the WinCup property to the MUGD overlay district. This overlay district would allow the property owner to redevelop up to 180 units on the property on the condition that at least 10% of the units would be affordable to moderate- and lower-income households.

On March 8, 2011 the Planning Commission conducted a public hearing on the draft Housing Element, the amendment to the zoning ordinance to add the MUGD district, and the WinCup rezoning. The commission voted unanimously to forward a recommendation for approval to the Town Council.

Please note that the Commission was concerned that the requirement for 10% of the housing in the MUGD district to be affordable may be too low. The Commission asked staff to do a survey of the affordable housing requirements used by other communities in Marin and to include the survey data in the staff report to the Town Council. The survey results are discussed on pages 11 through 13 of this staff report.

DISCUSSION:

Below is a chronological listing of events pertaining to this application:

- August 14, 2002 2002 Housing Element adopted
- April 21, 2009 2009 General Plan adopted and EIR certified. The EIR found that rezoning the WinCup property to MUGD was the “environmentally superior” alternative, and the strategy was included as part of the adopted Plan.
- August 18, 2009 Town Council appoints Citizens’ Advisory Committee to oversee preparation of draft Housing Element. The Advisory Committee meets seven times and conducts a public workshop.
- January 13, 2010 The Advisory Committee forwards the draft Housing Element to the Planning Commission and Town Council with a recommendation for approval.
- February 9, 2010 The Planning Commission conducts a public workshop on the draft Housing Element, and forwards the document to the Town Council, recommending that the Council authorize staff to submit the draft document to HCD for first-phase review.
- March 16, 2010 The Town Council holds a public workshop on the draft Housing Element, and directs staff to submit the Element to HCD for first-phase review.

- March 26, 2010 Draft Housing Element filed with HCD.
- May 25, 2010 HCD completes first-phase review with suggested revisions.
- October 19, 2010 The Town Council conducts a workshop to consider revisions to the draft Housing Element, which staff has proposed in response to HCD comments. The Council directs further revisions and authorizes staff to submit the revised element to HCD for a second first-phase review.
- November 12, 2010 Revised draft Housing Element submitted to HCD.
- January 10, 2011 HCD completed second round of first-phase review, stating that the revised draft meets the statutory requirements.
- February 25, 2011 Notice published for Planning Commission's public hearing on the draft Housing Element and the WinCup rezoning.
- March 8, 2011 Planning Commission voted unanimously to forward a recommendation for approval to the Town Council.

ANALYSIS:

The following analysis is in three parts: 1) *draft Housing Element*, 2) *WinCup rezoning* and 3) *environmental review*.

Part 1: Housing Element

For the sake of (relative) brevity, the contents of the draft Housing Element are not described in detail in the body of this staff report. The 2011 Housing Element is summarized in Attachment 5, and the full document is available on line at the Town's website (www.ci.corte-madera.ca.us) and at the Planning Department in Town Hall. This section of the staff report explains the law relative to housing elements, the Regional Housing Needs Allocation, the Realistic Development Capacity identified in the draft Housing Element, the proposed policy on homeless shelters, and issues with inclusionary housing.

California Planning, Zoning, and Development Law

State law requires every town, city, and county to adopt a General Plan containing at least seven elements, including a Housing Element. Housing Element regulations are found in the California Government Code Sections 65580-65589. Unlike the other mandatory General Plan elements, the Housing Element must be updated every five years and is subject to mandatory review by a State agency — HCD (Department of Housing and Community Development). The Housing Element must:

- Provide goals, policies, quantified objectives and scheduled programs to preserve, improve and develop housing.
- Identify and analyze existing and projected housing needs for all economic segments of the community.
- Identify "adequate sites" that are zoned and available within the 7 year housing cycle to meet the town's fair share of regional housing needs at all income levels.

- Be “certified” by the State Department of Housing and Community Development (HCD) as complying with state law.
- Be internally consistent with other parts of the General Plan.

Regional Housing Needs Allocation (RHNA)

The State of California determines the total housing need for the region at the beginning of each housing element planning cycle, which is about every 8 years. The Association of Bay Area Governments - ABAG - develops a Regional Housing Need Allocation (RHNA) distributing the region’s share of the statewide need to the cities and counties within the region. The current RNHA is for the 2007 — 2014 time period, and is broken into housing needs for various income levels in the town. Corte Madera’s total RHNA allocation is for 244 units. However, HCD will give “credit” for the 79 units built at San Clemente Place between 2007 and 2008. Table 1 below shows the Town’s Regional Housing Needs Allocation for the updated Housing Element.

**Table 1
RHNA 2007 - 2014.**

Income Category	Extremely Low	Very Low	Low	Moderate	Above Moderate	Total Units
2007 -2014 RHNA	34	34	38	46	92	244
Units Built 1/1/07 to 6/30/08	31	29	18	1		79
<i>Remaining Need</i>	<i>3</i>	<i>5</i>	<i>20</i>	<i>45</i>	<i>92</i>	<i>165</i>

Realistic Development Capacity

Local jurisdictions are not required to build the units in their respective RHNA allocations. Rather, they are responsible for documenting in the Housing Element that they have the “Realistic Development Capacity” to support the municipality’s RHNA. This means that the town, city, or county must have enough land zoned to allow construction of the number of units assigned by the RHNA. In the case of housing for extremely low-, very low- and low-income households, the appropriate zoning must be at a density of at least 20 units per acre, zoned exclusively for residential uses.

The draft 2011 Housing Element identifies a Realistic Development Capacity of 258 units. A discussion of Realistic Development Capacity begins on page 53 of the draft Housing Element. Policy H-2.7 (page 115) establishes four High Potential Housing Opportunity Areas that make up the majority of the development capacity. The Housing Element sets out an implementation program for each of the high potential sites:

- **Implementation Program H-2.7.b Mixed Use at the Corte Madera Gateway Area.**
This program calls for rezoning the WinCup property to a Mixed-Use Gateway District permitting up to 180 units at 40 units per acre, and allowing a minimum amount of commercial development. This policy repeats Policy LU-4.4 and Implementation Program-4.4.a in the land use element of the 2009 General Plan. The General Plan policy and the WinCup rezoning are discussed in more detail later in this report.
- **Implementation Program H-2.7.c Actions for Robin Drive**
This program applies to a vacant 15.18-acre property on Robin Drive. The site is designated Medium Density Residential and Open Residential on the General Plan diagram of the Land Use Element. Feasibility studies show that 15 single family detached units could be built on the property at planned densities. This program would require that at least 50% of the single-family homes include a second unit. This program is repeated from the 2002 Housing Element.

- Implementation Program H-2.7.d Actions for 1421 Casa Buena Drive**
 The General Plan would allow up to 11 units on this 1.29-acre parcel. This implementation program would simply have the Town facilitate development of the property with the 11 units allowed by the Plan.
- Implementation Program H-2.7.e Actions for Wornum Drive Extension**
 The Town owns this 1.4-acre parcel that fronts on Tamal Vista Boulevard. The property is zoned AHE-B, Affordable Housing which allows a density range up to 31.5 units per acre. The estimated yield for the property is 25 units. The implementation program would have the Town partner with a non-profit developer to build affordable housing. The preferred housing type would be small units for disabled persons. This preference is due to the fact that the site is somewhat constrained, and housing for the disabled requires significantly less parking than other housing types. This implementation program is repeated from the 2002 Housing Element.

The implementation programs cited above have a potential yield of 239 units. The rest of the development capacity consists of existing vacant single family lots, and the projected development of 9 second units in addition to the 8 granny flats contemplated for the Robin Drive site.

Homeless Shelters

Government Code Section 65583(a)(4) requires jurisdictions to accommodate at least one year-round emergency shelter with the capacity to provide for the unmet needs of homeless individuals. Effective January 1, 2008, Senate Bill 2 amended State Housing Element law to require jurisdictions to allow emergency shelters without discretionary approvals such as use permits.

As documented in section 2.0 Housing Needs Analysis of the draft Housing Element, there is an unmet need for 13 emergency shelter beds in Corte Madera. The Town Municipal Code does not provide a zoning district that permits emergency shelters with sufficient capacity to accommodate at least one year-round emergency shelter without a conditional use permit or other discretionary action.

Housing Element Implementation Program H-1.5.a addresses this unmet need. In earlier drafts of the Housing Element, H-1.5.a said that emergency shelters could be allowed in churches in the P/SP Public and Semi-Public district. This meant that shelters would not be allowed in the P/SP district unless they were in houses of worship. HCD rejected this approach, pointing out that the law requires that the Housing Element designate a zoning district rather than a building or land use type that could be allowed to support a shelter. Accordingly, H-1.5.a has been revised to say the Town will amend the regulations for the P/SP Public and Semipublic zoning district to permit year-round emergency shelters without the requirement for a conditional use permit or other discretionary approval in the P/SP Public and Semi-Public district.

Based on recent experience, churches and other places of worship may choose to sponsor homeless shelters. Staff has met with representatives from the three churches in town -- Hillside Church of Marin, Marin Lutheran Church, Holy Innocents Episcopal Church. Hillside and Marin Lutheran both indicated a preliminary interest in the program. Holy Innocents decided it is not interested in participating in a shelter program. Hillside is already zoned P/SP. Marin Lutheran is in the R-1 district, and Holy Innocents is zoned R-2. Implementation Program H-1.5.a now states that the zoning ordinance will be revised to allow homeless shelters in the P/SP district, subject to operating standards to

be developed by the Town. The program also says that the Town will offer to rezone Marin Lutheran and Holy Innocents to PS/P at the Town's expense. Again, Holy Innocents has indicated that they do not want to be rezoned, and accordingly Program H-1.5.a would not apply to Holy Innocents Episcopal Church. The latter church would retain its R-2 zoning and would not be allowed to sponsor a homeless shelter.

Inclusionary Housing

For many years, the Town has had an inclusionary housing policy that requires projects with 10 or more units to include affordable housing. This policy was put into ordinance form in 2003 with the adoption of the Affordable Housing Ordinance (Corte Madera Municipal Code section 18.24.120), which requires that 25% of the units in a 10+ unit project must be affordable. In its first review of the draft Housing Element, HCD voiced concern about this requirement and said the Element should be revised to assess whether the inclusionary housing policy is a constraint on housing development. Appendix D to the Housing Element is a pro forma analysis of a hypothetical 80-unit multifamily project with 25% of the units in the affordable ranges specified by the Municipal Code. The analysis concludes that the affordability requirement would make the project financially infeasible. This analysis does not show what level of mandated affordable housing is viable. Further complicated the issue are two recent California court cases that call into question the legality of any mandatory inclusionary policy. These cases are being studied by housing law experts to determine whether and how affordable housing ordinances can be implemented in California. It is clear, however, that municipalities can require affordable housing in return for granting density bonuses and other types of incentives. This issue is relevant to the approach staff is recommending for the WinCup property. Implementation Program H-2.16.b would have the Town update the Affordable Housing Ordinance to address the recent court cases.

Final points on the draft Housing Element

Most of the policies and programs in the proposed 2011 Housing Element are carry-overs from the 2002 Housing Element. The most significant initiative is the proposal to rezone the WinCup property for high density mixed-use, however this policy was adopted in 2009 with approval of the updated General Plan. The current draft of the Housing Element is very similar to the version the Town Council reviewed on March 16, 2010. The two substantive changes relate to the affordable housing ordinance and homeless shelters, as discussed above.

Part 2: WinCup Rezoning

The following discussion explains the policy basis for the WinCup rezoning and the standards in the proposed Mixed-Use Gateway overlay district.

Policy basis for the proposed zoning district

As originally written, the draft 2009 General Plan did not propose any near-term changes to intensity, density, or use of any parcels in the planning area, except that The Village shopping center, and the Town Center shopping center would each be allowed to expand significantly. The Plan proposed numerous policies to protect the environment, such as new wetlands protection standards, and programs to enhance the quality of life,

including design guidelines. The draft EIR found significant adverse impacts that would result from the Plan as originally proposed. These included

- a worsening imbalance between jobs and housing in the community;
- increased traffic and congestion on Highway 101;
- increased greenhouse gas emissions;
- conflicts with the Bay Area Air Quality Management District's improvement efforts, particularly with regard to ozone and particulate matter; and
- increased traffic noise that would exceed local standards.

Environmental Impact Reports must describe a reasonable range of alternatives to the project that could feasibly attain most of the basic project objectives and avoid or reduce some or all of the significant environmental effects of the project. The Final EIR (FEIR) for the updated General Plan included Alternative 4, consisting of the following:

- Village Shopping Center Mixed-Use, allowing the expansion of The Village Shopping Center by 185,000 square feet of retail area (for a 0.47 FAR) and 300 dwelling units. The FEIR determined that the projected jobs/housing imbalance would be reduced by this change. The improved jobs/housing balance would reduce commute traffic and thereby would reduce projected traffic volumes, traffic congestion, greenhouse gas emissions, regional air pollution, and traffic-related noise.
- Mixed-Use Gateway Development would involve redevelopment of the WinCup property into the Gateway Mixed-Use project consisting of 10,000 square feet of retail space and 180 dwelling units. The WinCup property would be rezoned to MUGD, the Mixed Use Gateway overlay district. This policy would also reduce the projected jobs/housing imbalance as well as projected traffic volumes, traffic congestion, greenhouse gas emissions, regional air pollution, and traffic-related noise.

The Town Center shopping center would not expand under Alternative 4. The Final EIR found that Alternative 4 was environmentally superior to the draft General Plan as originally proposed. The basic advantage of Alternative 4 is that it would put housing close to jobs and thereby reduce the increase in commute traffic that would be responsible for the adverse impacts identified in the draft EIR. The draft General Plan was revised to reflect Alternative 4, and was adopted by the Town Council in April 2009.

Reflecting Alternative 4, the 2009 General Plan assigns the following land use designation to the WinCup property:

Mixed-Use – Gateway Area

This designation applies to the 4.5 acre WinCup property at the northeast corner of the intersection of Tamal Vista Boulevard and Wornum Drive. This designation is intended to allow the continued use of the existing office, manufacturing, warehouse, and storage activities of the land, or a similar but less intense commercial/storage use. Should the property be redeveloped the mixed land use designation encourages higher-density residential development in conjunction with local-serving commercial uses, to promote efficient use of land resources, pedestrian and bicycle friendly environment, minimization of the visual impact of parked automobiles, and promote the use of transit over the private automobile.

The Mixed-Use Gateway designation includes local-serving commercial uses (such as small retailers, restaurants, and cafes; spa, bicycle shop, convenience grocery stores; and residential support services

such as dry cleaners, shoe repair, banks, and beauty salons) and higher residential density uses combined in a single building or on a single site in an integrated development pattern.

Zoning for the property must be consistent with the General Plan land use designation.

The 2009 General Plan addresses the WinCup property directly in land use policy LU-4.4 and the accompanying implementation program:

POLICY LU-4.4

Apply flexible development standards to the WinCup property in order to promote the community's economic development, protect and enhance the Town's tax base, and to encourage mixed-use development, including housing.

Implementation Program LU-4.4.a: Mixed Use at the Corte Madera Gateway Area.

Promote the redevelopment of the approximately 4.5 gross acre WinCup property at the northeast corner of the intersection of Tamal Vista Boulevard and Wornum Drive to mixed use consisting of high-density residential and local-serving commercial uses.

Amend the Zoning Ordinance to include an MUGD (Mixed Use Gateway District). Development standards will allow for flexibility in the application of building height limits, allowing well designed and appropriately located building(s) to achieve building heights beyond the limits provided for in the existing zoning ordinance, and flexibility in the application of street frontage and interior property line setbacks. Development standards will also allow for flexibility in the application of lot coverage, parking and other standards. Commercial development of the 4.5 acre property in the MUGD district shall not exceed 20,000 square feet of gross floor area. At the discretion of the Town Council, Policy LU-4.4 and Implementation Program LU-4.4.a may be implemented under the provisions of the PD (Planned Development Overlay District).

Responsibility: Planning and Building Department

Timeframe: On-going

Resources: Application Fees

The land use policy and program are carried forward in the draft Housing Element in implementation program H-2.7.b as follows:

Implementation Program H-2.7.b Mixed Use at the Corte Madera Gateway Area.

Promote the redevelopment of the approximately 4.5 gross acre WinCup property at the northeast corner of the intersection of Tamal Vista Boulevard and Wornum Drive to mixed use consisting of high-density residential and local-serving commercial uses. Development at the WinCup site will advance a Sustainable Communities Strategy for new multi-unit housing near existing transit and commercial services.

Amend the Zoning Ordinance to include an MUGD (Mixed Use Gateway District). Development standards will allow for flexibility in the application of building height limits, allowing well designed and appropriately located building(s) to achieve building heights beyond the limits provided for in the existing zoning ordinance, and flexibility in the application of street frontage and interior property line setbacks. Development standards will also allow for flexibility in the application of lot coverage, parking and other standards. Allow a non-residential Floor Area ratio of 0.34, and a minimum residential density of 40.0 dwelling units per gross acre for the existing parcels and/or any parcels resulting from a future land division, providing that the total commercial development shall not exceed 20,000 square feet of floor area.

Responsibility: Planning & Building Department

Financing: Application Fees

Product: Up to 180 units

Timeframe: Rezone the site to MUGD within one year of adoption of the Housing Element.

Proposed zoning district standards

The proposed MUGD district (the text of the MUGD district is in Attachment 3) is an overlay district. An overlay district is placed on a property in addition to a base district. The base district controls development and activities on the site, unless the property owner chooses to use standards offered by the overlay district. In the case of the WinCup property, the base district is M Light Industrial. The owner would have the option of redeveloping the property with up to 180 units on the condition that 10% of the units would be affordable to very low-, low-, and moderate-income households. Important standards in the proposed Mixed-use Gateway overlay district are discussed below.

Allowed Uses: Initially, all of the uses allowed in the M district are permitted. In the event that the property owner chooses to redevelop under the provisions of the MUGD multi-family residential uses and commercial uses allowed in the C-1 Neighborhood Shopping district would be allowed. If the MUGD option is exercised, the M Light Industrial district regulations would no longer apply, and the M uses would no longer be allowed.

Residential density: The allowed density would be 40 units per acre, with a potential yield of 180 units. This density is a density bonus granted in return for providing affordable housing as a percentage of the total units in the development as follows:

- very low-income: 2%;
- low-income households: 7%;
- moderate-income: 1%.

Commercial intensity: Up to 10,000 square feet of neighborhood serving uses is allowed.

Open space: a minimum of 50 square feet would be required for each unit. The open space requirement could be met with private spaces for some or all of the units, common open space, or a combination of private and common open space.

Parking: The proposed parking standard matches the standard in the Affordable Housing Mixed-Use district that was applied to the San Clemente Place project:

- efficiencies and one-bedroom units: 1 space;
- two-bedroom units: 1.5 spaces;
- three-bedroom units: 2 spaces;
- Guest parking: 1 space for every 10 units.

Height: 38 feet along all street frontages, and up to 48 feet on inner portions of the lot. This standard is designed to require buildings to step back from the street, in order to reduce apparent massing.

Setbacks: None are specified, however, setbacks could be determined at the time of project review.

Design Review: Development proposals will be subject to Design Review.

The proposed MUGD standards are designed to be consistent with the General Plan land use designation for the property (see page 8 above) and to implement the intent of

General Plan land use policy LU-4.4. The allowed density is consistent with the land use designation and the height, setback and coverage standards are consistent with the stated intent of LU-4.4 to promote redevelopment and high density housing with flexible standards.

Planning Commission comments: In its review of the proposed MUGD regulation, the Planning Commission expressed a concern that the requirement for 10-% of the units to be affordable may be too low. The Commission asked staff to conduct a survey of the affordability requirements of other Marin jurisdictions for the Council’s April 5, 2011 hearing. The survey results are shown in the table below.

Affordable Housing Ordinance Survey

Agency	Affordability requirement	Income requirements				Notes
		<i>Extremely low</i>	<i>Very Low</i>	<i>Low</i>	<i>Moderate</i>	
Corte Madera	25%		5%	10%	10%	
Larkspur	15% in projects w/ 5-14 units	See note	See note	See note	See note	<ul style="list-style-type: none"> • Rental projects to have unspecified % of very low and low. • For sale project can be moderate
	20% in projects w/ 15+ units	See note	See note	See note	See note	
Marin County	20%	See note	See note	See note	See note	Affordable units shall be either very low or low
Mill Valley	10% if density less than 7 du/ac				10%	
	15% if density greater than 7 du/ac				10%	
Novato	20%		10% (rentals)	10% (rentals)		
				10% (for sale)	10% (for sale)	
Sausalito	None		10%	20%		Sausalito does not require affordable units, but gives a density bonus if very low- or low-income housing is provided
San Anselmo	None	See note	See note	See note	See note	San Anselmo gives a density bonus if 40% of the project is low-income housing.
San Rafael	20%		10% (rentals)	10% (rentals)		HCD has asked San Rafael to determine whether the 20% rate is a constraint on development
				10% (for sale)	10% (for sale)	
Tiburon	20%		5%			

Points the Town Council may want to take from this survey include the following:

- The agencies differ in their approaches to requiring affordable units. Some have an inclusionary requirement for all projects over a given size, such as projects with 10 or more units. Larkspur is an example of this approach. Other agencies do

not require affordable units, but give a density bonus for projects that voluntarily provide more than some specified minimum percentage of affordable units; Sausalito has gone this route.

- Corte Madera uses both approaches. As shown in the table above, the Town requires affordable housing in all projects with 10 or more units. The Town also offers a 25% density bonus for any project that complies with the state density bonus law, which has a minimum inclusionary requirement of 5% very low-income units or 10% low-income units
- The agencies that have a required minimum percentage of affordable units or that offer a density bonus option all have a higher minimum threshold than the 10% affordability requirement proposed for the MUGD overlay district.
- HCD required Corte Madera to do an analysis to determine whether the Town's 25% inclusionary requirement is a constraint on development as part of the updated Housing Element. HCD concurred with the conclusion in the Housing element that 25% is in fact a constraint on housing development. HCD has required San Rafael to do a similar analysis as part of that city's updated Housing Element.

Currently, the whole concept of inclusionary housing is under a legal cloud in California due to recent court cases. However, the density bonus approach to getting affordable housing has not been challenged. The proposed 10% requirement to qualify for a density bonus in the MUGD district is consistent with the state density bonus law. Accordingly, staff recommends adopting the MUGD district with the proposed 10% inclusionary requirement.

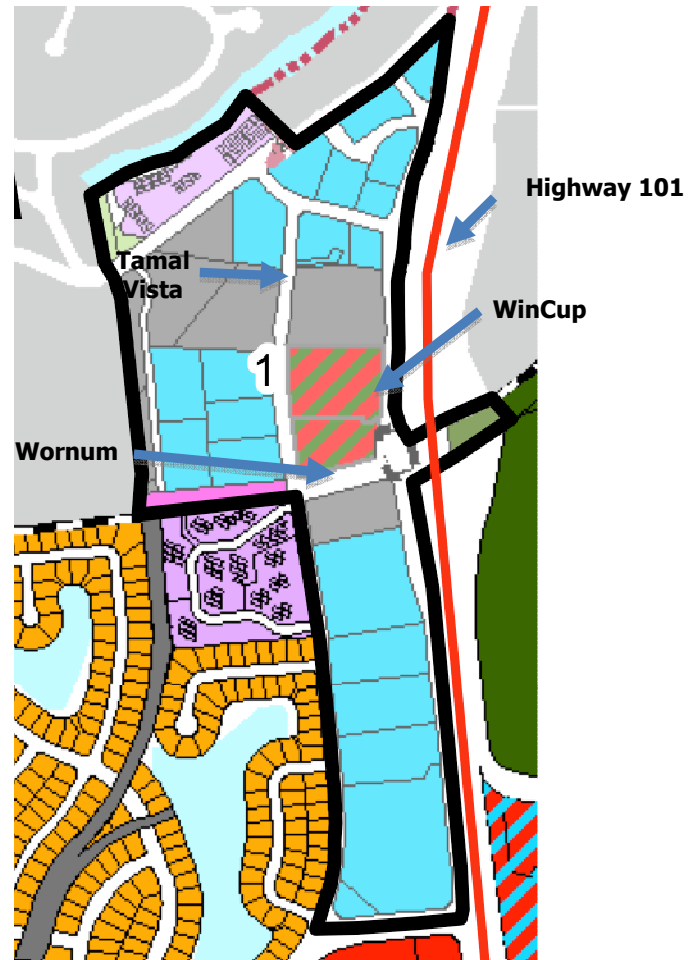
Property rezoning

The proposed MUGD would be applied to the 4.5-acre WinCup property at 195 Tamal Vista Boulevard (APN 024-011-62 & 63).

The environmentally superior alternative

The proposed MUGD overlay district is part of the strategy in the 2009 General Plan to reduce traffic congestion and all of the associated impacts by providing housing close to jobs and services. The WinCup site is well suited to this strategy because it is close to Golden Gate Transit bus pads and bicycle and pedestrian pathways, and the Larkspur Ferry Terminal is within walking distance. Commercial services are also within walking distance, and utilities and other infrastructure are in place.

The EIR for the 2009 General Plan found that the Mixed-Use Gateway strategy was environmentally superior to earlier proposals for the General Plan. By providing high-density housing close to jobs mixed-use development would help to reduce the commute to work. Marin County has the highest percentage of workforce “in-commuters” in the Bay Area, with 59.5% of the people who work here driving in from other counties. Corte Madera has the highest imbalance of jobs to housing, with more than 1.7 jobs in town for every household in the community. The EIR found that high-density housing on the WinCup site would help to slow the growth of the in-commute, which would reduce projected increases in highway congestion, traffic related noise, and greenhouse gas emissions.



Part 3: Environmental Evaluation

CEQA requires local governments to conduct environmental review on most public and private development projects. In addition to actual construction projects, “development projects” include the adoption of public policy documents such as General Plans and property rezonings. Environmental review may be in the form of a Negative Declaration, a Mitigated Negative Declaration, or an Environmental Impact Report (EIR). CEQA provides for many types of EIR’s to assist local agencies in streamlining and focusing the environmental review of a proposed action. One type, Program EIR’s, are prepared for an agency program or series of actions that can be characterized as one large project. Program EIR’s are generally used for agency plans, policies, and programs such as

General Plans. The EIR prepared for the Town of Corte Madera 2009 General Plan is a Program EIR. The EIR is available at the Town website and in the Planning Department at Town Hall.

The Town chose to prepare a program EIR for the General Plan in order to facilitate environmental review subsequent projects called for in the Plan, such as the Housing Element and the WinCup rezoning.

CEQA Guidelines Section 15168(c) states that subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared. Section 15168(c)(2) states that if the agency finds that pursuant to Section 15162, no new effects could occur or no new mitigation measures would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required. Section 15168(c)(4) says that the agency should use a written checklist or similar device to document the evaluation of the activity to determine whether the environmental effects of the operation are covered in the program EIR.

The attached Environmental Evaluation (attached to Attachment 1) has been prepared to satisfy the requirements of CEQA Guidelines Section 15168(c)(2). The evaluation examines each impact analysis (for example, the analysis of land use impacts) in the EIR for the 2009 General Plan to determine whether the scope of the analysis covers the policies and programs in the draft Housing Element and the proposed rezoning at WinCup. For each area of analysis, the evaluation asks whether the follow-on projects present new information that was not considered in the EIR, whether new effects could occur that were not considered in the EIR, and whether additional mitigation measures are needed.

The basic case for finding that the 2009 General Plan EIR covers the draft Housing Element and the WinCup rezoning is straightforward. The draft Housing Element covers the same planning area as the General Plan, and the development that it would allow is permitted by the land use designations and policies in the 2009 General Plan. The scope of the Housing Element is smaller, in that it covers a shorter time period -- out to 2014 -- compared to the 2025 horizon of the General Plan. Further, the draft Housing Element identifies a development capacity of 258 units versus the 650+ units that could theoretically develop under the 2009 General Plan. Similarly, the boundaries of the proposed rezoning are the same as analyzed in the EIR. The allowed uses and the permitted density is the same as specified in the General Plan and as examined in the EIR.

While, conceptually, the match between the General Plan EIR and the two follow-on projects is straightforward, the analysis in the attached environmental evaluation is somewhat complex. The Town Attorney advises that this level of detail is necessary to meet the requirements of Section 15168(c)(2) in the CEQA Guidelines.

Staff recommends that the program EIR prepared for the 2009 General Plan covers the draft Housing Element and the WinCup rezoning. Staff recommends that no further environmental review is required to adopt the draft Housing Element or to rezone the WinCup property with the MUGD overlay district. However, it should be noted that at the

time a design review application is submitted for the WinCup property, a traffic analysis will be required that extends beyond the 2009 General Plan EIR traffic analysis.

CONCLUSION:

The draft Housing Element is largely a continuation of policies that were adopted in the 2002 Housing Element and readopted in the 2009 General Plan. The most significant new initiative, the Mixed-Use Gateway overlay district at the WinCup property, is a product of the 2009 General Plan and EIR. The rezoning is part of an in-fill and mixed-use strategy in the Plan that seeks to reduce environmental impacts by providing new housing opportunities in commercial, office, and industrial areas without changing the character of traditional single family neighborhoods.

ATTACHMENTS:

1. Draft Town Council resolution finding that the EIR for the 2009 General Plan covers the draft Housing Element, the amendment to the zoning ordinance to add the MUGD overlay district, and rezoning the Wincup property.
2. Draft Town Council Resolution adopting the Housing Element
3. Draft ordinance amending the zoning ordinance to add the MUGD overlay district.
4. Draft ordinance rezoning the WinCup property to MUGD
5. Planning Commission resolution No. 11-005
6. Housing Element summary
7. Correspondence